

NOT FOR PUBLICATION

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA**

Steven Luckenbill,

Petitioner,

v.

Federal Correctional Institution - Phoenix, et
al.,

Respondents.

No. CV-23-02149-PHX-SRB

ORDER

Petitioner, Steven Luckenbill filed a Petition for Writ of Habeas Corpus on October 16, 2023 claiming that the Bureau of Prisons (BOP) is wrongfully refusing to credit certain education hours toward his time credits. Respondents answered arguing that Petitioner's claims were unexhausted and also without merit. The Magistrate Judge issued her Report and Recommendation on July 31, 2024 agreeing with Respondents that the claims were both unexhausted and without merit. In the Report and Recommendation, Petitioner was advised that he had 14 days from the date of service of the Report and Recommendation to file objections. He was also advised that failure to file objections may result in the Court's acceptance of the Report and Recommendation without further review.

Since the issuance of the Report and Recommendation, Petitioner has made two filings. On August 8, 2024 he filed a Request to Grant Petitioner's Motion which was signed on August 1, 2024 and on August 15, 2024 a letter to the Court dated August 8, 2024 was filed. The Request to Grant Petitioner's Motion was

1 clearly sent before Petitioner received the Report and Recommendation and will be
2 denied as moot. The letter states that it was sent in response to the Report and
3 Recommendation and further states that Petitioner is not contesting the Report and
4 Recommendation.

5 The Court has reviewed the Report and Recommendation and agrees with the
6 Magistrate Judge that Petitioner's claims are both unexhausted and without merit.

7 IT IS ORDERED adopting the Report and Recommendation of the Magistrate
8 Judge as the Order of this Court. (Doc. 12)


9 IT IS FURTHER ORDERED denying Petitioner, Steven Luckingbill's
10 Petition for Writ of Habeas Corpus. (Doc. 1)

11 IT IS FURTHER ORDERED denying as moot Petitioner's Request to Grant
12 Petitioner's Motion. (Doc. 13)

13 IT IS FURTHER ORDERED denying a Certificate of Appealability because the
14 denial of the Motion is justified by a plain procedural bar and jurists of reason would not
15 find the procedural ruling debatable and because Petitioner has not made a substantial
16 showing of the denial of a constitutional right.

17 IT IS FURTHER ORDERED directing the Clerk to enter judgment accordingly.
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19 Dated this 5th day of September, 2024.
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24 Susan R. Bolton
25 United States District Judge
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